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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,600	10/04/2001	William H. Wisecarver III	1480-00	1951
35811	7590	07/06/2005	EXAMINER	
IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP 1650 MARKET ST SUITE 4900 PHILADELPHIA, PA 19103			ALPERT, JAMES M	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/970,600	WISECARVER ET AL	
	Examiner	Art Unit	
	James Alpert	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 04 October 2001.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-7 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-7 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC §112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-3 & 6-7 are rejected under 35 U.S.C. §112. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "Lock Box" or "Stored Value Lock Box" in Claims 1-3 & 5-7 appear to be used by the claims to mean a financial account of limited use or limited access, while the accepted meaning is a physical box that locks and is secured. The term is indefinite because the specification does not clearly redefine the term. Appropriate correction is required.

Claim Rejections - 35 USC §101

35 U.S.C. §101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3 are rejected under 35 U.S.C. §101 because the claimed invention is directed to a non-statutory subject matter. Specifically the method claims as presented do not claim a technological basis in the preamble and the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than

a manipulation of an abstract idea and therefore non-statutory under 35 U.S.C. §101. In contrast, a method claim that includes in the body of the claim, some structural / functional interrelationship which can only be computer implemented is considered to have a technological basis [See Ex parte Bowman, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) - used only for content and reasoning since not precedential].

Claims 1-3 are directed toward a method for payment transactions between a consumer and a merchant. However, the preamble and the body of the claims do not indicate that a computer system executes the method. In order to over come the 101 rejections above, the following preamble is suggested:

A computer implemented method for ---, or something similar.

Also, in the body of the claim include some structural / functional interrelationship which can only be computer implemented.

Claim Rejections - 35 USC §103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armes, U.S. Patent Application Publication #20010034720.

With regard to Claims 1,5, Armes teaches the method and system comprising:

opening a customer account;
(Page 7-8, Para. 65, describing registering for a secondary transaction number (hereinafter, "STN") is a reasonable interpretation of "lockbox")

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verifying that the customer has an established credit card account;
(Page 7-8, Paras. 65-66)

creating an electronic stored value lock box; and
(Page 8, Para. 68, describing the request for the STN)

authorizing an amount of credit within the stored value lock box.
(Page 8, Para. 68, describing authorizing limitations on STN use, including amount)

The system and method in Armes describe a comprehensive method and system for a limited use account, traditionally implemented by a credit card provider. Although the Applicant may envision a system where an intermediary third party operates the limited use account, Armes teaches most of the claims when broadly interpreted. Small variations in the claims that are not expressly taught, are simply obvious modifications to the system of Armes. The motivation for such modifications is actually found in Armes at (Page 12, Para. 95) which described how the system and method utilizing the STN can be implemented and operated either by the card issuer or an intermediary third-party. This idea is repeated else in the specification at (Page 7, Para. 61) and elsewhere.

With regard to Claims 2,6, Armes teaches the method and system comprising:

creating an account number and access code, and
(The examiner interprets the term "access code" broadly to include a PIN number which is taught at Page 8, Para. 68; Pages 8-9, Paras. 72-73)

accessing a merchant via a computer network; (Page 8, Para. 70)

performing procedures for on-line purchasing; (Page 8, Para. 70)

entering the account number;
(Page 8, Para. 70; Page 9, Para. 73, describing the "drag and drop" onto merchant site)

entering the access code; (Page 8, Para. 68; Page 8, Paras. 75-76)

electronically routing the account number and access code to the provider
(Page 11, Para. 85)

confirming the credit amount and access code; and (Page 11, Para. 86)

routing the dollar amount of the transaction to the credit card issuer.
(Page 11-12, Paras. 91-92)

With regard to Claims 3,7, Armes teaches the method and system comprising:

wiring the amounts of the transaction to the merchant less any discount fee; and
(Pages 11-12, Para. 91, describing the process by which the instruction to be paid is generated)

debiting the stored value lock box the amount electronically transferred.
(Page 11, Para. 86, describing updates to the STN database following authorization;
Pages 12, Para. 92, describing generating cardholder billing)

With regard to Claim 4, Armes teaches the system comprising:

a consumer computer, (Figure 11, Item 1)

a merchant computer, (Page 5, Para. 47)

a credit card bank computer and (Page 5, Para. 47)

a system provider; (Page 12, Para. 95)

the consumer computer in communication with the system provider for opening up an account; (Page 7, Para. 65)

the system provider computer in communication with the credit card bank computer for verifying credit card information; (Page 2, Para. 16)

the consumer computer in communication with the merchant computer for on-line purchasing; (Page 8, Para. 70)

and the system provider computer in communication with the merchant computer for verifying customer information and transaction payment. (Page 11, Para. 91)

Conclusion

The following prior art, made of record, but not relied upon, is considered pertinent to applicant's disclosure:

Cohen, U.S. Patent #6422462, July 23, 2002, Apparatus and Methods for Improved Credit Cards and Credit Card Transactions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Alpert whose telephone number is (571) 272-6738. The examiner can normally be reached on M-F 9:30-6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

James M. Alpert
June 26, 2005

VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

